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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES - CHAIRMAN
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

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Arizona Corporation Commission

DOCKETED

JAN -5 2010

DOCKETED BY

IN THE MATTER OF THE FORMAL
COMPLAINT OF MARSHALL MAGRUDER
FILED WITH THE ARIZONA CORPORATION
COMMISSION ON DECEMBER 5, 2008.

) DOCKET NO. E-04204A-08-0589

) **UNS ELECTRIC, INC.'S
RESPONSE TO MARSHALL
MAGRUDER'S MOTION TO
COMPEL**

UNS Electric, Inc. ("UNS Electric" or the "Company"), through undersigned counsel, hereby responds to Mr. Marshall Magruder's December 21, 2009 Motion to Compel. UNS Electric has responded to each and every one of Mr. Magruder's data requests. The Company has provided responsive factual information to the data requests where appropriate.¹ Although it is apparent from his motion that Mr. Magruder is not satisfied with many of the responses, Mr. Magruder never contacted the Company in an attempt to informally understand or resolve his issues. His motion further does not provide any legitimate bases to compel different responses from the Company. Indeed, Mr. Magruder continues to press the Company to provide legal interpretations of various agreements, Commission orders and Commission rules. He further demands answers to data requests that incorporate Mr. Magruder's personal assumptions or other unfounded presumptions. And he continues to pursue a compliance issue (outage notification) that the Commission has found to be satisfied. Therefore, Mr. Magruder's motion to compel should be denied.

First, as Exhibit A clearly shows, Mr. Magruder seeks numerous legal opinions from UNS Electric regarding agreements, Commission orders and Commission rules. And, based on the arguments in his motion to compel, he appears to want those legal opinions to comport with what

¹ A copy of UNS Electric's responses to Mr. Magruder's requests (excluding voluminous attachments) is attached as Exhibit A.

1 he alleges in his complaint. Such requests are inappropriate. The Company is not obligated to
2 provide its legal interpretation in response to discovery or prove Mr. Magruder's case for him.

3 Second, Mr. Magruder has served several data requests that incorporate several
4 assumptions in his requests that are not substantiated and assume facts that UNS Electric strongly
5 disputes. In such instances, UNS Electric would object to what Mr. Magruder assumes in his
6 requests as speculative and not in evidence – should this matter proceed to an evidentiary hearing.
7 UNS Electric is not obligated to rewrite or interpret such requests to eliminate such assumptions.
8 Therefore, the Company's objections are appropriate. Further, Mr. Magruder is free to attempt to
9 revise his requests to eliminate improper assumptions and presumptions embedded in the current
10 requests.

11 Third, to the extent any of the scholarship data requests (the "1" series of data requests) do
12 not fall within the two general categories of infirmity set forth above, UNS Electric stands by its
13 objections and responses to those requests.

14 Fourth, beyond his requests that call for a legal interpretation, it does not appear that there
15 are any disputes regarding data requests related to the poles and conduits issue (the "2" series of
16 data requests).

17 Fifth, to the extent these data requests are related to the outage notification for customers
18 with life support equipment (the "3" series of data requests), that issue is moot. Mr. Magruder's
19 allegations stem directly from his assertion that the Company failed to comply with Decision No.
20 70360 (May 27, 2008) – which was the most recent UNS Electric rate order. The procedural order
21 dated December 8, 2009 in that docket, however, clearly states that UNS Electric "met its
22 obligations under Decision No. 70360 with respect to this issue."² Therefore, the data requests are
23 irrelevant and moot, regardless of other infirmities with the requests.

24 Therefore, for all of the above reasons, Mr. Magruder's Motion to Compel should be
25 denied.

26
27

²See Procedural Order, Docket No. E-04204A-06-0783 (December 8, 2009) at 3.

1 RESPECTFULLY SUBMITTED this 5th day of January 2010.

2 UNS ELECTRIC, INC.

3
4 By 

5 Philip J. Dion
6 UniSource Energy Services
7 One South Church Avenue
8 Tucson, Arizona 85701

9 and

10 Michael W. Patten
11 Jason D. Gellman
12 ROSHKA DEWULF & PATTEN, PLC.
13 One Arizona Center
14 400 East Van Buren Street, Suite 800
15 Phoenix, Arizona 85004

16 Attorneys for UNS Electric, Inc.

17 Original and 13 copies of the foregoing
18 filed this 5th day of January 2010, with:

19 Docket Control
20 Arizona Corporation Commission
21 1200 West Washington Street
22 Phoenix, Arizona 85007

23 Copies of the foregoing
24 mailed this 5th day of January 2010, to:

25 Marshall Magruder
26 P. O. Box 1267
27 Tubac, Arizona 85646

28 Jane Rodda
29 Administrative Law Judge
30 Hearing Division
31 Arizona Corporation Commission
32 400 West Congress
33 Tucson, Arizona 85701

34 Kevin O. Torrey
35 Legal Division
36 Arizona Corporation Commission
37 1200 West Washington
38 Phoenix, Arizona 85007

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Steve Olea
Director, Utilities Division
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007

By Mary Spolits

EXHIBIT

"A"

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES - CHAIRMAN
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

7 IN THE MATTER OF THE FORMAL) DOCKET NO. E-04204A-08-0589
8 COMPLAINT OF MARSHALL MAGRUDER) DOCKET NO. E-04204A-06-0783
9 FILED WITH THE ARIZONA CORPORATION)
10 COMMISSION ON DECEMBER 5, 2008.) **UNS ELECTRIC, INC.'S**
11) **RESPONSES TO**
12 IN THE MATTER OF THE APPLICATION OF) **MR. MAGRUDER'S**
13 UNS ELECTRIC, INC. FOR THE) **DATA REQUESTS**
14 ESTABLISHMENT OF JUST AND)
15 REASONABLE RATES.)

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UNS Electric, Inc. ("UNS Electric" or "Company"), through undersigned counsel, hereby responds to "Mr. Magruder's First, Second and Third Sets of Data Requests for UNS Electric".

Attached to the Responses is a CD that contains excel files which are not bates stamped.

RESPECTFULLY SUBMITTED this 29th day of October 2009

ROSHKA DEWULF & PATTEN, PLC

By

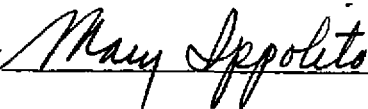


Michael W. Patten
Jason D. Gellman
One Arizona Center
400 East Van Buren Street, Suite 800
Phoenix, Arizona 85004
Attorneys for UNS Electric, Inc.

Copy of the foregoing emailed/mailed
this 29th day of October 2009 to:

Marshall Magruder
P. O. Box 1267
Tubac, Arizona 85646

By



UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

Issue 1 **Meeting the Requirements of Article 9 of the City of Nogales
Settlement Agreement concerning Student Loans.**

MM DR 1-1 Please provide a copy of all correspondence sent to and received from
the City of Nogales concerning this issue.

RESPONSE: All correspondence between UNS Electric and the City of Nogales
regarding this issue are privileged pursuant to Rule 408. Further,
assuming Mr. Magruder is correct that he represents the City of Nogales,
he should already have this information.

RESPONDENT: Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 1-2 Please provide the status on the present negotiations concerning this issue to include with whom UNS Electric is conducting negotiations, copies of all correspondence and the latest draft and/or proposed agreements.

RESPONSE: Again, this information is subject to privilege for the same reason as cited in MM DR 1-1.

RESPONDENT: Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 1-3

During the 23 July 2009 review conference with the ALJ and all parties, the Magruder Status Report quoted significant parts of the Settlement Agreement, including that severability of any section of the Agreement was not permitted. To resolve this issue, I stated, and hope it was understood, that this party would accept and help with negotiating any agreement that met the conditions of Article 9, to avoid the "severability" issue. Such an Agreement could then describe how Article 9 was being implemented. What is the company's position on this statement?

RESPONSE:

This issue, in addition to the question of whether UNS Electric is a successor, and the enforceability of the language in the Settlement Agreement, including Agreement #9, would be subject to review by court of competent jurisdiction. Regardless, UNS Electric does not believe, and has not been provided any documentation indicating, that Mr. Magruder has the authority to negotiate on behalf of the City of Nogales.

RESPONDENT:

Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 1-4 Will the Company provide a draft version of a "UNS Electric Student Loan Program Description and Application" and a "UNS Electric Student Loan Agreement", or similar documents, to this party for review and comment? If not, is the Company willing to collaborate with this party in developing such documents?

RESPONSE: Any agreement on this matter is strictly between UNS Electric and the City of Nogales. Again, if Mr. Magruder represents the City of Nogales, he should already have the information.

RESPONDENT: Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 1-5

A concern was raised concerning the "standing" of this party in this issue. Please explain why an appointed Energy Commissioner by the Mayor of the City of Nogales can be interpreted as not having "standing" on the implementation of the Settlement Agreement? It is noted, I routinely report to the City Manager, City Council, and Attorney on this and many other energy-related issues. Nothing has changed my status from representing this City since January 2001, when so appointed.

RESPONSE:

It is UNS Electric's understanding that the position described above no longer exists, as the Energy Commission has completed its tasks and issued a final report to the City of Nogales and Santa Cruz County on June 8, 2001. Moreover, Mr. Magruder has not provided any documentation that the Energy Commission still exists or that he is a current member of the Commission.

Additionally, Mr. Magruder is not an attorney, and therefore does not represent the City of Nogales in this proceeding or have standing in this matter. Additionally, any representation by Mr. Magruder of a party, other than himself, would result in the unauthorized practice of law.

RESPONDENT:

Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

Issue 2

Replacement of Defective Utility Poles and Underground Cables in 32 Projects.

MM DR 2-1

What is the process being used to determine when a utility pole requires replacement? If age is a determination, where is such information found, and please provide a copy?

RESPONSE:

Santa Cruz has a biannual line patrol on all distribution circuits. During these patrols there is a visual inspection of all poles and associated equipment.

RESPONDENT:

Tom Hoyt

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 2-2 How many utility poles have been annually replaced since August 2003?

RESPONSE: Between September 14, 2004, when the computer system, STORMS, was installed that tracks pole installations, and October 21, 2009, UNS Electric replaced 302 poles in the Santa Cruz division for maintenance purposes. Obtaining information prior to this date is overly burdensome.

RESPONDENT: Tom Hoyt

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 2-3 What is the process being used to determine when an underground cable requires replacement? If age is a determination, where is such information found, and please provide a copy?

RESPONSE: Since visual inspection is not possible, once a year UNS Electric uses infrared on its underground feeder getaway terminations to test for abnormalities ("hot spots").

RESPONDENT: Tom Hoyt

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 2-4 How many feet of underground cable have been annually replaced since August 2003?

RESPONSE: Between September 14, 2004, when the computer system, STORMS, was installed that tracks cable installations, and October 20, 2009, UNS Electric replaced 22,733 feet of underground cable in the Santa Cruz division for maintenance purposes. Obtaining information prior to this date is overly burdensome.

RESPONDENT: Tom Hoyt

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

MM DR 2-5

Please provide a copy of the annual distribution reliability index values for each Santa Cruz service area feeder distribution line, using IEEE Std 1688, since August 2003. A copy of the report submitted to the ACC is adequate.

RESPONSE:

UNS Electric is not required to comply with the IEEE 1688 Standard for Module Electromagnetic Interference Testing, though reliability indices as specified in the IEEE 1366 Guide for Electric Power Distribution Reliability Indices are tracked for Santa Cruz County. Indices are tracked on a system basis and not for each individual feeder; therefore, data is available on the system-level only.

UNS Electric responded to a similar question in Staff's 8th set of data requests in Docket No. E-04204A-09-0206. STF 8.9 is below:

(Start of STF 8.9)

STF 8.9

Please provide determinations of the reliability indices (Distribution System Indices); i.e., Customer Average Interruption Duration Index (CAIDI), System Average Interruption Duration Index (SAIDI) and System Average Interruption Frequency Index (SAIFI)), as well as any other distribution system performance metrics that UNS Electric evaluates for each of 2007, 2008, and to date for 2009. Please state the time threshold used for the calculation of these indices. How do these indices compare with the IEEE standard/guidelines for such indices?

In terms of these indices, please indicate four worst circuits in both the Mohave County and the Santa Cruz County service areas. Please also explain the reasons for the outages and the mitigation measures taken to correct the problems.

RESPONSE: UNS Electric is in the process of gathering this information and will provide the response to this data request shortly.

RESPONDENT: Regulatory Services

SUPPLEMENTAL

RESPONSE: Please see the following tables:

Kingman	2007	2008	2009 - 8/31
SAIFI - All	1.930	2.516	2.816
SAIFI - Clear Weather	1.734	2.010	2.707

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

SAIFI - MED	1.930	0.985	0.626
CAIDI - All	51.199	100.995	35.716
CAIDI - Clear Weather	49.042	107.932	35.556
CAIDI - MED	51.199	70.994	52.698

Lake Havasu	2007	2008	2009 - 8/31
SAIFI - All	0.912	0.496	0.866
SAIFI - Clear Weather	0.867	0.490	0.656
SAIFI - MED	0.776	0.217	0.661
CAIDI - All	75.327	72.414	40.628
CAIDI - Clear Weather	68.618	72.495	29.630
CAIDI - MED	59.107	71.663	30.163

Santa Cruz	2007	2008	2009 - 8/31
SAIFI - All	1.996	3.713	2.026
SAIFI - Clear Weather	0.977	3.139	1.916
SAIFI - MED	1.881	1.769	1.306
CAIDI - All	84.156	144.393	64.444
CAIDI - Clear Weather	95.566	152.552	63.944
CAIDI - MED	77.866	75.155	60.343

Mohave	2007	2008	2009 - 8/31
SAIFI - All	1.481	1.604	2.007
SAIFI - Clear Weather	1.357	1.336	1.826
SAIFI - MED	1.189	0.892	1.962

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S FIRST SET OF DATA REQUESTS
DOCKET NOS. E-04204A-08-0589/E-04204A-06-0783
OCTOBER 29, 2009

CAIDI - All	59.518	95.879	36.960
CAIDI - Clear Weather	56.044	100.407	34.306
CAIDI - MED	60.631	73.298	24.315
2009 -			
UES	2007	2008	8/31
SAIFI - All	1.586	2.029	2.011
SAIFI - Clear Weather	1.280	1.706	1.844
SAIFI - MED	1.586	1.264	1.975
CAIDI - All	65.860	113.506	42.565
CAIDI - Clear Weather	62.214	119.412	40.540
CAIDI - MED	65.860	72.348	32.642

The sustained outage threshold for these indices is 5 minutes. All indices are calculated according to the methods laid out in IEEE 1366-2003.

Indices designated as "All" include all outages that occurred during the indicated year. Indices designated as "Clear Weather" include all outages that occurred during the indicated year, except for those outages caused by storms. Indices designated as Major Even Days "MED" include all outages that occurred during the indicated year, except those outages which occurred on days that were determined to be MED, as defined by IEEE 1366-2003. Due to the availability of properly formatted historical data, MED was calculated using 3 years of historical data for 2007, 4 years for 2008, and 5 years for 2009. All future MED thresholds will be calculated with the rolling 5-year period of historical data.

Indices labeled Kingman, Lake Havasu, and Santa Cruz are calculated with outages from only their respective areas. Mohave indices are calculated by combining the Kingman and Lake Havasu outages. UNS Electric indices are calculated by combining Kingman, Lake Havasu, and Santa Cruz outages.

Indices for Santa Cruz, Kingman, and Lake Havasu are not calculated at a circuit level; therefore, worst circuits, as

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defined by those criteria, are not available.

RESPONDENT: Lauren Briggs

WITNESS: Thomas A. McKenna

(End of STF 8.9)

RESPONDENT: Thomas A. McKenna

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MM DR 2-6 Please provide a copy of the annual "Service Outage Map" and associated service outage reports provided to the City of Nogales in accordance with Section 11(a) of the UNS Electric Franchise agreement with the City of Nogales (excerpt below) since approval of the Franchise Agreement in 2005.

RESPONSE: Please see the Excel files MM DR 2-6 2005 City of Nogales Outages, MM DR 2-6 2006 City of Nogales Outages, MM DR 2-6 2007 City of Nogales Outages, and MM DR 2-6 2008 City of Nogales Outages on the enclosed CD.

RESPONDENT: Tom Hoyt

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MM DR 2-7

How does UNS Electric determine the annual depreciation for installed utility poles and underground cables in the Santa Cruz service area? Please provide a copy of the process used and how this was determined for either the ongoing or prior UNSE rate cases.

RESPONSE:

R14-2-102(B)(1) of the Arizona Administrative Code states "If a public service corporation seeks a change in its depreciation rates, it shall submit a request for such as part of a rate application...". Proposals to change depreciation rates that are submitted in rate cases reflect the results obtained from detailed studies of the mortality characteristics of the respective assets in each utility plant account, much in the same way that life insurance companies use historical data to study the life expectancy characteristics of their policy holders for purposes of setting premium rates.

Utility distribution poles are accounted for in Acct. No. 364, Poles, Towers, and Fixtures, while underground cables are accounted for in Acct. 367 Underground Distribution Conductors and Devices. These are "mass asset" accounts meaning that depreciation accounting is performed at the vintage group level, not at the individual asset level. For UNS Electric, all Company assets in Acct. Nos. 364 and 367, irrespective of location, are depreciated at a single rate for all assets in the account. Currently, those rates are 4.14% and 4.40%, respectively. Such rates were submitted to and approved by the Commission in its Decision No. 70360 (May 27, 2008).

RESPONDENT: Carl Dabelstein

WITNESS: Karen G. Kissinger

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Issue 3

Notification of those on Life Support during an Electrical Outage.

MM DR 3-1

Since the Arizona Administrative Code R14-2-203(A)(1)(j) permits utility companies to obtain information from customers on "type and kind of life-support equipment, if any, used by the customer", does UNS Electric still believe this is legally not permitted (please note R14-2-203(A)2 permits "law enforcement or public agency" to request this information)? If so, please explain the rationale for law enforcement not being allowed to collect this life-support data.

RESPONSE:

Arizona Administrative Code R14-2-203(A)(1)(j) does not authorize the utility to unilaterally release collected personal and confidential information to a third party.

RESPONDENT:

Lindy Sheehey

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-2

If a County Ordinance was approved that required UNS Electric to notify the County Sheriff and City of Nogales Police Department of all customers that have life support equipment, whenever any of these customers have an outage, would there be any problem with complying? If so, please explain.

RESPONSE:

This is a hypothetical question and is irrelevant to UNS Electric's current obligations.

RESPONDENT:

Lindy Sheehy

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-3 Please provide a copy of all correspondence sent to and received from the Santa Cruz Sheriff and City of Nogales Police Department concerning this issue?

RESPONSE: This request is vague and ambiguous and appears to request information that is confidential and/or privileged.

RESPONDENT: Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-4

Does UNS Electric have a draft Memorandum of Understanding that it would want to use to start negotiations with these two organizations that operate the Dispatch Centers in this county? If not, would the Company agree to collaborate and develop such a MOU with the goal to implement such a program?

RESPONSE:

This request is vague and ambiguous. UNS Electric has met all of its obligations regarding customers using life support.

RESPONDENT:

Regulatory Services

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 **COMMISSIONERS**

3 KRISTIN K. MAYES - CHAIRMAN
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

7 IN THE MATTER OF THE FORMAL) DOCKET NO. E-04204A-08-0589
8 COMPLAINT OF MARSHALL MAGRUDER) DOCKET NO. E-04204A-06-0783
9 FILED WITH THE ARIZONA CORPORATION)
10 COMMISSION ON DECEMBER 5, 2008.)
11) **UNS ELECTRIC, INC.'S**
12) **RESPONSES TO**
13 IN THE MATTER OF THE APPLICATION OF) **MR. MAGRUDER'S 2nd**
14 UNS ELECTRIC, INC. FOR THE) **SET OF DATA REQUESTS**
15 ESTABLISHMENT OF JUST AND)
16 REASONABLE RATES.)

13 UNS Electric, Inc. ("UNS Electric" or "Company"), through undersigned counsel, hereby
14 responds to "Mr. Magruder's Second Set of Data Requests for UNS Electric".

15 RESPECTFULLY SUBMITTED this 12th day of November 2009

16 ROSHKA DEWULF & PATTEN, PLC

17
18 By 

19 Michael W. Patten
20 Jason D. Gellman
21 One Arizona Center
22 400 East Van Buren Street, Suite 800
23 Phoenix, Arizona 85004
24 Attorneys for UNS Electric, Inc.

25 Copy of the foregoing emailed/mailed
26 this 12th day of November 2009 to:

27 Marshall Magruder
P. O. Box 1267
Tubac, Arizona 85646

By 

UNS ELECTRIC, INC.'S RESPONSES TO
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Issue 1

**Meeting the Requirements of Article 9 of the City of Nogales
Settlement Agreement concerning Student Loans.**

MM DR 1-6

Does UNS Electric acknowledge and agree that there is a Succession provision in Article 10 on page 8 of the Revised Citizens Utility Company-City of Nogales Settlement Agreement of 1 June 1999 incorporated in ACC Decision No. 61793 of 29 June 1999 which stated "This Revised Settlement Agreement binds the successor and assigns of the Parties"? If no, please explain.

RESPONSE:

UNS Electric objects to the request to the extent it calls for a legal interpretation. Further, UNS Electric states that Decision No. 61973 (June 29, 1999) dismissed with prejudice the complaint filed by the City of Nogales and did not approve or incorporate the Revised Settlement Agreement Between City of Nogales, Arizona, and Citizens Utilities Company.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-7

Does UNS Electric acknowledge and agree that it is the successor, as a public service corporation, to Citizens (also known as Citizens Communications Company, Citizens Utility Company, Santa Cruz Electric Division, and other titles) as implemented by ACC Order No. ? If no, please explain.

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation and that the request is vague and ambiguous.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-8 Does UNS Electric acknowledge and agree that the "Asset Purchase Agreement" between Citizens and UniSource Energy of 29 October 2002 contains a paragraph 2.3(i) on page 23 and its associated Schedule 2.3(i) that specified the Citizens-City of Nogales Settlement Agreement was an "assumed liability"? If no, please explain.

RESPONSE: UNS Electric objects to the request to the extent it calls for a legal interpretation. Without waiving the objection, UNS Electric states that the Asset Purchase Agreement dated October 29, 2002 and any associated schedules speak for themselves.

RESPONDENT: Regulatory Services.

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MM DR 1-9

Does UNS Electric acknowledge and agree that Marshall Magruder is a Party, customer of UNS Electric who lives in Santa Cruz County, in ACC Dockets No E-04204A-08-0589 (Magruder Formal Complaint) and E-04204A-06-0783 (UNS Electric Rate Case)? If no, please explain.

RESPONSE:

UNS Electric acknowledges that Marshall Magruder is a UNS Electric customer who lives in Santa Cruz County, and further admits that Mr. Magruder is a Party in pro persona in Docket Nos. E-04204A-08-0589 and E-04204A-06-0783.

RESPONDENT:

Regulatory Services.

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MM DR 1-10

Does UNS Electric acknowledge and agree that there is a Severability provision in Article 10 on page 8 of the Revised Citizens Utility Company-City of Nogales Settlement Agreement in ACC Decision No. 61793 of 29 June 1999) which stated "The provisions of this Revised Settlement Agreement are not severable."? If no, please explain.

RESPONSE:

UNS Electric objects to the request to the extent it calls for a legal interpretation. Further, UNS Electric states that Decision No. 61973 (June 29, 1999) dismissed with prejudice the complaint filed by the City of Nogales and did not approve or incorporate the Revised Settlement Agreement Between City of Nogales, Arizona, and Citizens Utilities Company.

RESPONDENT:

Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-11

Does UNS Electric acknowledge that it has still has obligations to meet the requirements ordered in paragraph 13 of ACC Order No. 61793 of 29 June 1999 that states "Under the terms of the Revised Settlement Agreement, Citizens will ... (g) fund four-year, interest free loans for Santa Cruz County high school graduates"? If no, please explain.

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation. Without waiving the objection, UNS Electric states that Decision No. 61793 (June 29, 1999) speaks for itself and denies that it has obligations as assumed in the request.

RESPONDENT:

Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS
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MM DR 1-12 Please provide a copy of "Rule 408" discussed in your response to MM DR 1-1, as it can not be located in the *Arizona Rules of Court (2007)*.

RESPONSE: Arizona Rules of Evidence, Rule 408 is attached.

RESPONDENT: Regulatory Services.

DATA RESPONSE

1-12



Welcome to the online source for the Arizona Court Rules

Arizona Rules of Evidence, Rule 408 Rule 408. Compromise and Offers to Compromise

Arizona Rules of Evidence, Rule 408

Arizona Revised Statutes Annotated Currentness

Rules of Evidence for Courts in the State of Arizona (Refs & Annos)

Article IV. Relevancy and Its Limits (Refs & Annos)

➡Rule 408. Compromise and Offers to Compromise

<Text of rule effective until January 1, 2010. See, also, text of rule
effective January 1, 2010.>

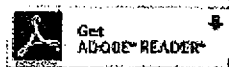
Evidence of (1) furnishing or offering or promising to furnish, or (2) accepting or offering or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for or invalidity of the claim or its amount. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This rule does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This rule also does not require exclusion when the evidence is offered for another purpose, such as proving bias or prejudice of a witness, negating a contention of undue delay, or proving an effort to obstruct a criminal investigation or prosecution.

17A A. R. S. Rules of Evid., Rule 408, AZ ST REV Rule 408

Current with amendments received through 10/15/09

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MM DR 1-13 Please explain how correspondence concerning implementation of Article 9 of the Nogales Settlement Agreement between the City of Nogales and UNS Electric meets the requirements of Rule 408.

RESPONSE: UNS Electric objects to the request as it calls for a legal interpretation. Without waiving the objection, UNS Electric states the Arizona Rules of Evidence, Rule 408 speaks for itself.

RESPONDENT: Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-14 Please provide the dates and participants at all meeting in Santa Cruz County since August 2003 that concern implementation of ACC Order No. 61793 paragraph 13(g) and/or Article 9 or a revision to it or other changes proposed. This DR is not for information itself but for dates and participants in such discussions.

RESPONSE: UNS Electric objects to the request as unduly burdensome and overbroad.

RESPONDENT: Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-15

Does UNS Electric consider representatives from various school districts as parties to Article 9 discussions, and if so, which school organizations would UNS Electric recommend being parties?

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation. Without waiving the objection, UNS Electric states that the City of Nogales and Citizens Utilities Company were Parties to the Revised Settlement Agreement Between City of Nogales, Arizona, and Citizens Utilities Company dated June 1, 1999, and that the document speaks for itself.

RESPONDENT:

Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-16

Does UNSE Electric acknowledge and agree with the Revised Settlement Agreement, in Article 10 have a provision that states "Citizens' activities under this Revised Settlement Agreement remain subject to the continuing jurisdiction of the Commission, by virtue of Citizens' status as a public service corporation under Arizona law"? If no, please explain why the Commission's statement not be valid.

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation and that the request mischaracterizes the provision as a Commission statement. Without waiving the objection, UNS Electric states that the Revised Settlement Agreement Between City of Nogales, Arizona, and Citizens Utilities Company dated June 1, 1999 speaks for itself. Further, UNS Electric states that Decision No. 61973 (June 29, 1999) dismissed with prejudice the complaint filed by the City of Nogales and denies that the statement referred to in the request is a Commission statement as assumed in the request.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-17

Based on Article 10 of the Revised Settlement Agreement, does UNS Electric agree and acknowledge that it has obligations to presently fund four-year no-interest student loans to high school seniors at \$3,000 for each year and that such loans are forgiven if the graduate returns to Santa Cruz County for employment? If no, please explain.

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation. Without waiving the objection, UNS Electric states that the Revised Settlement Agreement Between City of Nogales, Arizona, and Citizens Utilities Company dated June 1, 1999 speaks for itself and denies each and every allegation made and/or implied in the request.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-18

Based on prior testimony by this party, it appears that at least \$104,000 funding for student loans has not been met since the Commission approved ACC Order No. 61793 of 29 June 1999. What does UNS Electric propose to meet these unfunded obligations and does UNS Electric agree that funding two such students in this program a year for the next ten years would meet this obligation?

RESPONSE:

UNS Electric denies each and every premise and allegation made and/or implied in this request and objects to same.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 1-19

Does UNS Electric understand that its response to MM DR 1-5 stated the submission of the report mentioned on June 8, 2001 did not complete the tasks assigned and that the Board of Supervisors told the Commission to meet at the call of its Chairman.

RESPONSE:

UNS Electric objects to the request as irrelevant, beyond the scope of the proceedings, argumentative and not likely to lead to the discovery of admissible evidence. Without waiving the objection, UNS Electric understands that the City of Nogales and Santa Cruz County Joint Commission on Energy ("Joint Commission") was dissolved on or around September 3, 2008, that the Joint Commission had not met in seven years before it was dissolved, that Mr. Magruder represents himself in pro persona in this proceeding, and does not and cannot represent the City of Nogales or Santa Cruz County.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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Issue 2

Replacement of Defective Utility Poles and Underground Cables in 32 Projects.

MM DR 2-8

The UNS Electric response to MM DR 1-1 did not answer the request; however, it is now requested that the company's policy and practice or equivalent and a sample checklist used for line patrols be provided. In this documentation, please include the steps used from planning for the biannual line patrol through the approval process to install a replacement pole.

RESPONSE:

Please see the attached Excel file MM DR 2-8.xls for a sample patrol sheet. Construction Supervisor hands over patrol sheet to Journeyman Lineman with Circuit Number he wants patrolled at that time.

- Journeyman Lineman with either another Journeyman or Apprentice will go out and patrol pole by pole with vehicle, quad or by foot where needed.
- Journeyman will write down Location, Pole #, Comments, and Material on patrol sheet if maintenance or replacement is needed.
- Journeyman will determine the priority of the maintenance or replacement that is needed by writing an ABCD in the comments as "A" being the highest to "D" being the lowest.
- Priority "A" = Same Day Repairs
- Priority "B" = Next Day Repairs
- Priority "C" = Within 2-Weeks Repairs
- Priority "D" = Within 1-6 Months Repairs
- Journeyman after Circuit Patrol will hand deliver patrol sheet to Construction Supervisor.
- Construction Supervisor will look over comments to see if there is any Priority A&B's.
- Construction Supervisor will immediately schedule crews for Emergency repairs on any Priority A's for same day or B's for next day.
- Construction Supervisor after going over patrol sheet will send patrol sheet via e-mail to Engineering for work request to be generated.
- Engineering will receive patrol sheet and will assign to a Planner
- Engineering Planner will go by priority to determine the scope of the work.
- Engineering will do field work needed for materials, mapping or permitting needed if any.
- Engineering will generate work request and send to Construction.
- Construction Supervisor will schedule to crews Warehouse for materials.
- Crews complete work and turn in Work Request back to Construction.
- Work Request Order is sent to TEP Mapping Department to close order and input asbuilts to GIS

RESPONDENT: Ricky Robles/Thomas Hoyt

DATA RESPONSE

2-8

Sent to Engineering

Priority D

[illegible]

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-9

The UNS Electric response to MM DR 1-3 did not answer the request; however, it is now requested that the company's policy and practice or equivalent and a sample checklist used for the infrared process be provided. In this documentation, please include the steps used from planning for the annual test through the approval process to install a replacement pole.

RESPONSE:

UNS Electric objects to the request as argumentative, vague and ambiguous.

RESPONDENT:

Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-10

How many underground cables during this infrared feeder gateway terminal test found abnormalities compared to reported failures in the field annually from September 2004 to 1 October 2009?

RESPONSE:

There have been no abnormalities found that correspond to outages during the relevant time period.

RESPONDENT:

Thomas Hoyt

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS
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MM DR 2-11 Does UNS Electric determine reliability at the substation level as required by WECC/NERC Operational Reliability Criteria and if so, please provide such data.

RESPONSE: UNS Electric objects to the request as overbroad, beyond the scope of this proceeding, irrelevant and not likely to lead to the discovery of admissible evidence.

RESPONDENT: Regulatory Services

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-12

UNS Electric's response to MM DR 2-6 did not provide a map but did provide Excel spreadsheet of outages. Has an "outage service map" been submitted to the City of Nogales annually as specified in the Franchise Agreement?

Quote: Excerpt from the City of Nogales Franchise Agreement with UNS Electric.

SECTION 11. RELIABILITY OF UTILITY SERVICE.

(a) Service Outage Map. On an annual basis, the Company shall provide to the City a report of all service outages that last for longer than one (1) hour, technical upgrades made to its distribution system, and efforts made to improve the reliability of the distribution system.

End Quote

RESPONSE:

There is no such language in the above quote that requires the Company to provide an annual service outage map – only “. . . a report of all service outages . . . “ Please see the Excel files provided in UNS Electric's response to MM DR 2-6 in Mr. Magruder's first set of data requests for the service outage reports requested.

RESPONDENT:

Donovan Sandoval

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-13

A review of the data from MM DR 2-6 shows there are logical outages that are not included. For example, circuit outages on 27 May 2005 did not impact Circuit VA-6242 or VA-6245 or VA-6247 while another circuit outage impacted these three circuits. Table 1 shows an extract from this data. Please explain if some data are missing?

Table 1 Outage Data Extract from UNSE Response to MM DR 2-6				
Date (YYMMDD)	Circuit	Duration in Minutes	Number of Customers	Outage Customer-Minutes
050527	VA-6241	194	359	69,646
050527	VA-6243	179	2224	398,096
050527	VA-6244	191	1503	287,073
050527	VA-6246	189	2163	408,807
080716	VA-6241	267	653	174,351
080716	VA-6242	100	1347	134,700
080716	VA-6243	290	2467	715,430
080716	VA-6244	290	1609	466,610
080716	VA-6245	134	850	113,990
080716	VA-6246	201	1868	375,468
080716	VA-6247	242	9	2,178

RESPONSE:

The 3 circuits listed were excluded by mistake due to a lack of address in the outage data; because these outages originated on the transmission system, there is no address associated with any of them. The amended table is below:

Table 1 Outage Data Extract from UNSE Response to MM DR 2-6				
Date (YYMMDD)	Circuit	Duration in Minutes	Number of Customers	Outage Customer-Minutes
050527	VA-6241	194	359	69,646
050527	VA-6242	184	1645	302,680
050527	VA-6243	179	2224	398,096
050527	VA-6244	191	1503	287,073
050527	VA-6245	184	841	154,744
050527	VA-6246	189	2163	408,807
050527	VA-6247	177	4	708
080716	VA-6241	267	653	174,351
080716	VA-6242	100	1347	134,700
080716	VA-6243	290	2467	715,430
080716	VA-6244	290	1609	466,610
080716	VA-6245	134	850	113,990
080716	VA-6246	201	1868	375,468
080716	VA-6247	242	9	2,178

RESPONDENT: Lauren Briggs

UNS ELECTRIC, INC.'S RESPONSES TO
MR. MAGRUDER'S SECOND SET OF DATA REQUESTS
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MM DR 2-14

Also shown in Table 1 are the durations of these outages. There are major differences between them. Please explain, such as Circuit VA-6243 was the first circuit restored on 7 May 2005 and the last on 16 July 2008.

RESPONSE:

Circuit restoration must be done incrementally. When the turbines are started, load is added in increments in order to allow the system to return to steady-state conditions after each addition. This means that some circuits will be returned to service at different times so that the turbines continue to operate.

RESPONDENT:

Lauren Briggs

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-15 Also shown in Table 1, the number of customers with wide variations. Please explain.

RESPONSE: The numbers of customers continually change; customers are frequently adding and removing services. Generally, the number of customers increases. The number of customers on individual circuits changes constantly as the circuit configurations themselves change. Loads are frequently transferred between circuits, which affects their customer counts.

RESPONDENT: Lauren Briggs

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-16

Please provide the present total number of customers on each Valencia substation feeder circuit by customer category.

RESPONSE:

Please see the table below for the total number of customers on each Valencia substation feeder circuit. These customer counts are based on the current circuit configurations and in-service customers and, therefore, are subject to change. Customers are not grouped by "customer category."

Valencia Customer Counts	
Circuit	# of Customers
VA-6241	768
VA-6242	1723
VA-6243	2582
VA-6244	1701
VA-6245	866
VA-6246	2001
VA-6247	14

RESPONDENT: Lauren Briggs

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-17

Does UNS Electric acknowledge and agree that the "Asset Purchase Agreement" between Citizens and UniSource Energy of 29 October 2002 contains a paragraph 2.3(i) on page 23 and its associated Schedule 2.3(i) that specified ACC Order No. 62011 of 2 November 1999 and its incorporated Settlement Agreement between Commission Staff in Docket No. E-01032A-99-0401 of are classified as an "assumed liability"? If no, please explain.

RESPONSE:

UNS Electric objects to the request to the extent it calls for a legal interpretation. Without waiving the objection, UNS Electric states that the Asset Purchase Agreement dated October 29, 2002 and any associated schedules speak for themselves.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-18

Does UNS Electric acknowledge and agree that ACC Order No. 62011 in Finding of Fact No. 15 that stated "The [Commission Staff-Citizens] Settlement Agreement commits Citizens to a Plan of Action that is in compliance with Decisions No. 61383 and 61793 and incorporates Staff Recommendations. The Settlement Agreement states that the Plan of Action includes Citizens' submittal of April 15, 1999, as supplemented on May 7, 1999 and July 13, 1999."? If no, please explain.

RESPONSE:

UNS Electric objects to the request to the extent it calls for a legal interpretation. Without waiving the objection, UNS Electric states that Decision No. 62011 (November 2, 1999) speaks for itself.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 2-19 Does UNS Electric acknowledge and agree that ACC Order No. 62011 contains a Severability Provision? If no, please explain.

RESPONSE: UNS Electric objects to the request to the extent it calls for a legal interpretation. Without waiving the objection, UNS Electric states that the "Settlement Agreement between Commission Staff and Citizens Utilities Company" dated August 9, 1999 and Decision No. 62011 (November 2, 1999) speak for themselves.

RESPONDENT: Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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Issue 3

Notification of those on Life Support during an Electrical Outage.

MM DR 3-5

The company's response to MM DR 3-1 did not answer the request. Please acknowledge or agree that the Arizona Administrative Code R14-2-203(A)(1)(j) permits utility companies to obtain information from customers on "type and kind of life-support equipment, if any, used by the customer". If no, please explain.

RESPONSE:

UNS Electric objects to the extent the request calls for a legal interpretation and is argumentative. Without waiving the objections, UNS Electric states that A.A.C. R14-2-203(A)(1)(j) speaks for itself.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-6

Does UNS Electric believe it is not permitted to share, on a confidential basis, basic data concerning only customers on life support equipment who have agreed to be notified during an outage to law enforcement or public agencies in accordance with the Arizona Administrative Code R14-2-203(A)2, such as Fire Departments responding to make such a notification? It should be noted that only law enforcement personnel at the County Sheriff and City of Nogales Dispatch centers would have this information and that information would be used to have a first responder to determine the status of the person on life support equipment.

RESPONSE:

UNS Electric objects to the extent the request calls for a legal interpretation. Without waiving the objection, UNS Electric states that A.A.C. R14-2-203(A)(2) speaks for itself.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-7

Does UNS Electric acknowledge and agree that **ALL persons on life support equipment** would benefit by the proposed program and not just those on the lower-income CARES rate category. If no, please explain why the company keeps wants to limit this program to the few that are of lower incomes.

RESPONSE:

UNS Electric denies the allegations and assertions made in the request and objects to same. Without waiving the objection, UNS Electric states it has complied with Decision No. 70360 (May 27, 2008), as stated in its response dated December 29, 2008.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-8

Please explain how correspondence concerning setting up a process between the company and the City/County is confidential and/or privileged for the company to notify the two county dispatch centers when there is an outage meets this criteria. If, after review, then could all relevant correspondence and other information of record be provided to his party.

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation and that the information requested is subject to Arizona Rules of Evidence, Rule 408. Without waiving the objection, UNS Electric states that Mr. Magruder is a party in pro persona, and is not authorized and is not able to represent the City of Nogales or Santa Cruz County.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-9

Does the company agree with this party that expenses for such a program impact customer safety and should easily meet the prudence test as allowable expenditures? If no, please explain especially since this issue is in ACC Order for the rate case.

RESPONSE:

UNS Electric objects to the request as it calls for a legal interpretation, is beyond the scope of this proceeding, is irrelevant and is not likely to lead to the discovery of admissible evidence.

RESPONDENT:

Regulatory Services.

UNS ELECTRIC, INC.'S RESPONSES TO
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MM DR 3-10

The company's response to MM DR 3-4 missed the point. Will the company work with Marshall Magruder to draft and implement a Memorandum of Understanding between UNS Electric and the County and City? I offered to do this with the company because I know the Sheriff and City both would agree to such a program but both need, and I agree the company, also, an Agreement on how this will be implemented, security measures, and legal liabilities resolved for all parties. When can we meet to draft and walk through such a MOU?

RESPONSE:

UNS Electric objects to the request is vague and ambiguous, argumentative, beyond the scope of this proceeding, irrelevant and not likely to lead to the discovery of admissible evidence. Without waiving the objection, UNS Electric states that Mr. Magruder does not represent the City of Nogales or Santa Cruz County, and that no entity is under any obligation to draft a Memorandum of Understanding in accordance with or as assumed in the request. UNS Electric further states it has met its obligations under Decision No. 70360 (May 27, 2008).

RESPONDENT:

Regulatory Services.